MT LEGISLATIVE HISTORY

Chapter 138 19 77

Bill H 417 S _____ Original bill & hist. ___C

H. Committee on Bus & Ind. S. Committee on ~~Bus & Ind.~~ Local Govt

Hearing Date(s)			Hearing Date(s)		
	2-2	___C		3-11	___C
	2-4	___C		_____	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	2-4	___C		3-11	___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

LC 1105/01

H BILL NO. 417

INTRODUCED BY Lynch (By Request)

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A CLASS "D" MOTOR CARRIER ENCOMPASSING ALL MOTOR CARRIERS TRANSPORTING GARBAGE AND SOLID WASTE; AMENDING SECTION 8-102, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 8-102, R.C.M. 1947, is amended to read as follows:

"8-102. Classification of motor carriers -- operation according to provisions of act required. (a) Motor carriers are hereby divided into ~~three--(3)~~ four classes for the purposes of this act, to be known as:

Class A motor carriers,

Class B motor carriers,

Class C motor carriers,

Class D motor carriers.

Class A motor carriers shall embrace all motor carriers operating between fixed termini or over a regular route, under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

Class B motor carriers shall embrace all motor carriers operating under regular rates or charges based upon either station-to-station rates or upon a mileage rate or scale, and not between fixed termini or over a regular route.

Class C motor carriers shall embrace all motor carriers operating motor vehicles for distributing, delivering or collecting wares, merchandise, or commodities, or transporting persons, where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement or undertaking. Such class C motor carriers distributing, delivering or collecting wares, merchandise or commodities, or transporting persons shall do so under six (6) contracts, charters, agreements or undertakings or less annually. Every class C motor carrier providing such transportation services by means of more than six (6) contracts, charters, agreements or undertakings shall be deemed to be providing common carriage and shall operate under a class B motor carrier certificate in lieu of such class C motor carrier certificate. All class C motor carriers must annually submit to this commission the names and addresses of all persons, firms, corporations or other legal entity with whom the said class C carrier has executed a contract, charter, agreement or undertaking for the distribution, delivery or collection of wares, merchandise or commodities, or transporting persons.

The provisions of this section requiring certain class C motor carriers to operate under a class B motor carrier

certificate and to submit an annual statement to the commission shall not apply to solid waste contractors, to household goods carriers as defined by the department of public service regulation, nor to any carrier whose authority is confined by certificate to transportation within a distance of fifty (50) miles or less from a particular location and that is performing pick up and delivery service under contract for one or more common carriers within that area.

Class D motor carriers embraces all motor carriers operating motor vehicles transporting, including pickup and disposal of, ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter. Class D carriers shall conduct operations pursuant to a certificate of public convenience and necessity issued by the commission authorizing the transportation of the above-described commodities. Class D carriers when applying for a new or additional authority shall file an application with the commission in accordance with the requirements of the Montana Motor Carrier Act and the rules of the commission.

(b) It shall be unlawful for any corporation or person, its or their officers, agents, employees, or servants, to operate any motor vehicle for the transportation of persons and/or property for hire on any public highway in this state except in accordance with the

provisions of this act."

Section 2. There is a new R.C.M. section that reads as follows:

Implementation. All Class D motor carriers, whether property carriers or otherwise, who have conducted a motor carrier transportation service for hire utilizing motor vehicle equipment and appropriate disposal sites consistent with the laws of this state and rules of the commission and the department of health and environmental sciences shall, upon sufficient written proof to the commission consisting in prior business records reflecting a continuous and permanent transportation service for 1 year prior to the effective date of this act, receive a certificate of public convenience and necessity as a Class D carrier authorizing transportation of the above-described commodities within the geographical area described in the written proof submitted. Such proof must be submitted to the commission within 4 months following the effective date of this act. Thereafter, no Class A, B, or C carrier will be authorized or permitted to transport ashes, trash, waste, refuse, rubbish, garbage, or organic and inorganic matter within the state of Montana.

-End-

STATE OF MONTANA

REQUEST NO. 200–77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 25, 19 77, there is hereby submitted a Fiscal Note for House Bill 417 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating a class "D" motor carrier encompassing all motor carriers transporting garbage and solid waste.

ASSUMPTIONS:

1. At present, there are 75 Class "C" garbage authorities and conversion would be a minor clerical problem.
2. At present, there are 235 Class "B" and "C" property authorities and conversion to Class "D" would be approximately 30% or 65 conversions. These conversions could be quite time consuming in that verification of "sufficient" written proof would have to be substantiated and possibly a hearing held.

FISCAL IMPACT:

	FY 78	FY 79
Personal services	$3,928	$ 0
Operating expenses	60	0
Total additional cost of proposed legislation	$3,988	$ 0

Richard L. Dawson for

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-31-77

BUSINESS & INDUSTRY COMMITTEE

45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 417	To create a class "d" motor carrier encompassing all motor carriers transporting garbage and solid waste; amendments	1/24/77	Lynch	2/02/77	AS SO AMENDED DO PASS	2/07/77
HB 418	To establish motor vehicles transporting garbage and solid waste as being within the term "Motor Carrier"	1/24/77	Lynch	2/02/77	DO PASS	2/07/77
HB 437	Revision; authorizing the Department of Health and Environmental Sciences to initiate and maintain actions to collect a civil penalty; clarifications; amendments	1/24/77	Vincent	2/07/77	AS AMENDED DO PASS	2/16/77
HB 442	To require County Attorneys to institute and pursue to completion prosecution of persons passing bad checks whenever there are three or more complaints against one individual ...	1/24/77	Teague	2/04/77	DO NOT PASS	2/07/77
HB 446	To authorize the Public Service Commission to regulate sewerage services rates; defining...; amendments	1/24/77	Pistoria	2/09/77	TABLED DO PASS	2/09/77 4/06/77
HB 470	To make the discretion of the Public Service Commission with respect to an application by a utility for a temporary rate increase; amendments	1/24/77	Vincent	2/14/77 canceled 2/16/77	DO NOT PASS	2/16/77

Mr. Glen Kenny, Surity Title Insurance, stated he has made examinations. The requirements for the title insurance plan under which he would be making an examination. He stated he could not understand why the bill would need a fiscal impact statement. The salary has been raised from $100 to $25 per hour.

Mr. Greg Morgan, State Bar of Montana, stated that with the amendments, the bill should be recommended do pass. It creates no substantive changes.

Mr. Ted James, First Montana Title, stated it was a consumer oriented bill. He said it would diminish the chance of having a loss. When a loss occures, you want to be sure the policy holder will be protected. He also said that with the amendments, no money will be needed.

Mr. Bill Gowen and Mr. Warren Solberg expressed their support in the bill (testimonies attached). Mr. Solberg said it would provide a checking of the title from day one to the present date.

Mr. Robert Nog concurred in the previous testimony. Mr. Robert L. Johnson also concurred in the previous testimony (testimony attached).

Opponents:

Mr. Neil Ugrin, Common Wealth Insurance Company, said there could be a strong case made against this bill. He stated there have been several features which were not eluded to. It would restrict trade in commerce, for there are a number of plants and companies doing business with plants that are not up to requirements which have been set in this law. Also, many people will be forced out of business due to this law. He stated this piece of legislation is not constitutional. The bill would prevent attorneys from going to the county to do their work. It is simply a bill which would protect the people who already have the plants.

Mr. E. Bob Brown, Great Falls Attorney, said he has written title insurance in all of the counties. He concurred with Mr. Ugrin in saying the bill is designed mainly to prohibit the competition.

Mr. Chris Leary, Missoula, reiterated Mr. Ugrin's comments.

During the questioning period, Mr. Brown stated the insurance examiner examines the companies on a regular basis.

Rep. Lynch closed in saying the bill is a consumer protection bill. When one buys insurance he should be fully protected.

House Bill No. 417 and 418 were discussed. Rep. Lynch, sponsor, gave a brief explanation of the bills.

Proponents:

Mr. Bill O'Leary, Montana Solid Waste Contractors, Inc., stated that in order to clarify regulation and continue regulation the purpose is to define the motor carriers under the Motor Carrier Act. This bill would provide for some carries in the state to be property carriers, also. He submitted an amendment which would eliminate the limitation on the motor carrier as to how long he could obtain the license (attached).

Mr. Louie Green, Montana Solid Waste Contractors, Inc., stated that the Public Service Commission had asked them to pay for the change of a "C" license to a "D" license. It would not cost the state any money.

Rep. Tropila directed a question to Mr. O'Leary regarding the carriers being under the Public Service Commission at the present time. Mr. O'Leary said they are under the PSC as certified carriers. They are carriers of long standing. Mr. O'Leary also stated that a carrier holding an "A", "B", or "C" license may obtain a "D" license after they have filed an application and had a hearing, etc.

Mr. O'Leary made comments on House Bill No. 418 clarifying the bill. He said that the proof clause on Implementation assures the property carries of a safeguard. The "D" carries are required to buy packer equipment and utilize individuals susceptible to regulations. If these carries could complete qualifications to the PSC which would state there there are no illegal haulers.

The committee then went into executive session.

Rep. Harper moved that House Bill No. 347 DO PASS. The motion was carried unanimously.

Rep. Tropila moved that House Bill No. 413 DO NOT PASS. After some discussion the motion carried with 8 members voting yes and 6 members voting no (attached).

The meeting adjourned at 6:00 p.m.

JOHN C. VINCENT

BUSINESS AND INDUSTRY COMMITTEE

February 4, 1977

The meeting was called to order at 3:45 p.m., with all members present except Rep. Bradley, who was excused.

House Bill 442 was discussed. Rep. Teague, sponsor, said the bill will strengthen the law against bad check writers. If 3 businessmen had bad checks totalling $25 together, they could initiate action against the writer. Mr. Russ Livergood presented testimony in support of the bill, which is attached.

Mr. Tom Honzel testified in opposition to the bill, as did Mike McGraff. Their testimony is attached. Rep. Teague closed by saying that when a case is dropped it is closed. Mr. Honzel said that the problem is when you get 10 checks by the same individual. Our office will prosecute all bad checks if they fall in our areas. We require everyone to send a certified letter to the writer giving them 5 days to make the check good. If they do not, we send out a warrant. This sort of work takes up about 50% of the time in our office.

Senate Bill 78 was discussed. Senator Boylan, sponsor, said the bill will provide for 3-quart containers for dairy products.

House Bill 482 was discussed. Rep. Fabrega said there will be $25 million in the coal tax fund. This bill will provide for the coal tax trust fund within the unified investment program. Opponents were Jim Howett and Pat Bins. Their testimony is attached. Rep. Fabrega closed by saying that mortgage insurance would definitely limit the fund. The bill would provide 625 houses. The Board of Housing would handle this in the same way they allocate what is now available. After more discussion, the Chairman said action will be deferred on this bill in order to compare it with other bills.

The committee went into Executive Session to consider bills.

Senate Bill 78 - Rep. Scully moved that the bill BE CONCURRED IN. The motion passed with Rep. Harper voting no, Rep. Metcalf abstaining.

Hosue Bill 417 - Rep. Scully moved that the amendments to the bill be adopted. The motion passed unanimously. He then moved that the bill DO PASS AS AMENDED. The motion passed unanimously.

House Bill 418 - Rep. Burnett moved that the bill DO PASS. The motion passed unanimously.

Rep. Scully moved that executive action be deferred on this bill. The motion passed. The bill will be considered February 7.

45th LEGISLATIVE SESSION

COMMITTEE ON Business and Industry

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO NOT PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 17	1/19/77	2/22/77	2/22/77				2/22/77		
HB 40	1/22/77	2/22/77	2/22/77				2/22/77		
HB 41	1/22/77	2/22-3/7	3/7/77				3/7/77		
HB 42	1/19/77	2/22-3/10	3/10/77				3/10/77		
HB 71	2/2/77	2/24/77	2/24/77				2/24/77		
HB 171	2/5/77	3/3-3/14	3/14/77					3/14/77	
HB 196	2/17/77	3/3/77	3/3/77					3/3/77	
HB 214	2/2/77	2/24-/3/10	3/10/77				3/10/77		
HB 245	1/31/77	3/15/77	3/15/77	WITHOUT RECOMMENDATION					
HB 304	2/10/77	3/24-3/26	3/26/77					3/26/77	
HB 308	2/2/77	2/24-3/10	3/10/77				3/10/77		
HB 337	2/17/77	3/3/77	3/3/77	WITHOUT RECOMMENDATION					
HB 347	2/14/77	3/8/77	3/8/77				3/8/77		
HB 384	2/21/77	3/5/77					3/5/77		
HB 405	2/23/77	3/5-3/7	3/7/77						3/7/77
HB 417	2/16/77	REFERRED TO	LOCAL GOVERNMENT						

(Use Separate Sheet for Senate, House Bills, and Resolutions)

45th LEGISLATIVE SESSION

COMMITTEE ON LOCAL GOVERNMENT

House BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
61	3-2-77	3-16-77							
417	3-2-77	3-11-77	3-11-77				3-11-77		
438	3-2-77	3-16-77	3-28-77						3-28-77
659	3-3-77	3-21-77	3-23-77				3-23-77		
667	3-3-77	3-25-77	4-6-77						4-6-77
418	3-3-77	3-11-77	3-11-77				3-11-77		
801	3-5-77	3-21-77	3-28-77					3-28-77	
JR 78	3-15-77	3-21-77	3-21-77				3-21-77		
JR 7	3-26-77	4-1-77	4-6-77 Judiciary						
428	4-6-77	4-8-77	4-8-77				4-8-77		
294	4-7-77	4-11-77							

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 11, 1977

The meeting of the Local Government Committee was called to order by Chairman McCallum on March 11 at 9:36 A.M. in Room 410 of the State Capitol Building.

ROLL CALL: All members were present.

The following visitors were present: W. E. O'Leary, Montana Solid Waste Contractors Inc.; Roy E. Bennett, City of Billings; Don Lewis, City of Helena; Arthur Van't Hul, City of Bozeman; Mildred Coleman, Plains; Frank Coleman, Plains; Herman Whiemnard, Plains; Eva Spaulding; Glen Drake, League of Cities and Towns.

CONSIDERATION OF HOUSE BILL 323: Representative Harrington, District 88, Sponsor of House Bill 323, stated the bill would allow private carriers to continue for a period of 3 years following annexation to realize their investments. If the private carrier is not providing adequate service, the city may appear before the Public Service Commission, prove the service is inadequate and provide services themselves. Bill O'Leary, Montana Solid Waste Contractors Inc., testified in support of House Bill 323.

Opponents. Glen Drake, League of Cities and Towns, stated the bill needs amending. It is too inflexible as written. Roy Bennet, City of Billings, opposed House Bill 323 (attached). Don Lewis, Sanitation Department, Helena, opposed House Bill 323 stating the bill takes away the right of the people to decide on their own service. He doesn't feel the bill is needed.

House Bill 124. The Chairman placed House Bill 124 in a sub-committee consisting of Senator Thiessen, Senator Peterson and Senator Dunkle.

House Bill 638. The Chairman placed House Bill 638 in a sub-committee consisting of Senator Thiessen, Senator Story and Senator Lockrem.

CONSIDERATION OF HOUSE BILL 417: William O'Leary, Montana Solid Waste Contractors Inc., presented House Bill 417 to the Committee. He stated the purpose of the bill is to establish a Class D Carrier to encompass garbage and refuse carriers.

CONSIDERATION OF HOUSE BILL 418: William O'Leary

stated House Bill 418 takes the term motor carrier and includes specifically garbage and refuse carriers.

Senator Watt moved House Bill 417 be given a "Be Concurred In" recommendation. Senator Dunkle seconded the motion. Motion carried unanimously.

Senator Watt moved House Bill 418 be given a "Be Concurred In" recommendation. Senator Thiessen seconded the motion. Motion carried unanimously.

Senator Dunkle moved House Bill 323 be given a "Be Concurred In" recommendation. Senator Peterson seconded the motion. Motion carried unanimously.

ADJOURN: The meeting adjourned at 10:35.

George McCallum

Senator George McCallum, Chairman

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STANDING COMMITTEE REPORT

March 11 19 77

MR. President

We, your committee on Local Government

having had under consideration House Bill No. 417

Respectfully report as follows: That House Bill No. 417

~~DO PASS~~
BE CONCURRED IN

Senator George McCallum, Chairman.

STATE PUB. CO.
Helena, Mont.

HOUSE BILL NO. 417

INTRODUCED BY LYNCH (BY REQUEST)

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A CLASS "D" MOTOR CARRIER ENCOMPASSING ALL MOTOR CARRIERS TRANSPORTING GARBAGE AND SOLID WASTE; AMENDING SECTION 8-102, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 8-102, R.C.M. 1947, is amended to read as follows:

"8-102. Classification of motor carriers -- operation according to provisions of act required. (a) Motor carriers are hereby divided into ~~three--(3)~~ four classes for the purposes of this act, to be known as:

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Class B motor carriers,

Class C motor carriers,

Class D motor carriers.

Class A motor carriers shall embrace all motor carriers operating between fixed termini or over a regular route, under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

Class B motor carriers shall embrace all motor carriers operating under regular rates or charges based upon either station-to-station rates or upon a mileage rate or scale, and not between fixed termini or over a regular route.

Class C motor carriers shall embrace all motor carriers operating motor vehicles for distributing, delivering or collecting wares, merchandise, or commodities, or transporting persons, where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement or undertaking. Such class C motor carriers distributing, delivering or collecting wares, merchandise or commodities, or transporting persons shall do so under six (6) contracts, charters, agreements or undertakings or less annually. Every class C motor carrier providing such transportation services by means of more than six (6) contracts, charters, agreements or undertakings shall be deemed to be providing common carriage and shall operate under a class B motor carrier certificate in lieu of such class C motor carrier certificate. All class C motor carriers must annually submit to this commission the names and addresses of all persons, firms, corporations or other legal entity with whom the said class C carrier has executed a contract, charter, agreement or undertaking for the distribution, delivery or collection of wares, merchandise or commodities, or transporting persons.

The provisions of this section requiring certain class C motor carriers to operate under a class B motor carrier

certificate and to submit an annual statement to the commission shall not apply to solid waste contractors, to household goods carriers as defined by the department of public service regulation, nor to any carrier whose authority is confined by certificate to transportation within a distance of fifty (50) miles or less from a particular location and that is performing pick up and delivery service under contract for one or more common carriers within that area.

Class D motor carriers embraces all motor carriers operating motor vehicles transporting, including pickup and disposal of, ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter. Class D carriers shall conduct operations pursuant to a certificate of public convenience and necessity issued by the commission authorizing the transportation of the above-described commodities. Class D carriers when applying for a new or additional authority shall file an application with the commission in accordance with the requirements of the Montana Motor Carrier Act and the rules of the commission.

(b) It shall be unlawful for any corporation or person, its or their officers, agents, employees, or servants, to operate any motor vehicle for the transportation of persons and/or property for hire on any public highway in this state except in accordance with the

provisions of this act."

Section 2. There is a new R.C.M. section that reads as follows:

Implementation. All Class D motor carriers, whether property carriers or otherwise, who have conducted a motor carrier transportation service for hire utilizing motor vehicle equipment and appropriate disposal sites consistent with the laws of this state and rules of the commission and the department of health and environmental sciences shall, upon ~~sufficient~~ written proof ~~to the commission~~ consisting ~~in~~ OF prior business records reflecting a ~~continuous and permanent~~ transportation service for 1 year prior to the effective date of this act, WHICH BUSINESS RECORDS SHALL BE SUBMITTED TO THE COMMISSION IN AN INFORMAL MANNER, receive a certificate of public convenience and necessity as a Class D carrier authorizing transportation of the above-described commodities within the geographical area described in the written proof submitted. Such proof must be submitted to the commission within 4 months following the effective date of this act~~, thereafter~~; AND THE COMMISSION SHALL ISSUE SUCH CLASS D CERTIFICATES WITHIN AN ADDITIONAL 90 DAYS, AND THEREAFTER, no Class A, B, or C carrier will be authorized or permitted to transport ashes, trash, waste, refuse, rubbish, garbage, or organic and inorganic matter within the state of Montana.

-End-